



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Department of Ecology AO # 05-19

- ☒ **Preproposal Statement of Inquiry was filed as WSR 06-03-135** ; or  
☐ **Expedited Rule Making--Proposed notice was filed as WSR** ; or  
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**  
☐ **Supplemental Notice to WSR** \_\_\_\_\_  
☐ **Continuance of WSR** \_\_\_\_\_

**Title of rule and other identifying information:**

This action amends the two rules that regulate new or modified sources of toxic air pollutants, Chapter 173-400-110 WAC, General Regulations for Air Pollution Sources, New Source Review, and WAC 173-460, Controls for New Sources of Toxic Air Pollutants.

**Hearing location(s):**

**Lacey**

**Date:** January 13, 2009

**Time:** 7:00 pm

Dept. of Ecology

300 Desmond Drive SE

Lacey, WA 98503

**Spokane**

**Date:** January 14, 2009

**Time:** 4:00 pm

Eastern Regional Office

Dept of Ecology

4601 N. Monroe St.

Spokane, WA 99205

**Submit written comments to:**

Name: Linda Whitcher

Address: PO Box 47600

Olympia WA 98504-7600

e-mail [liwh461@ecy.wa.gov](mailto:liwh461@ecy.wa.gov)

fax: (360)407-7534 by (date) 5:00 pm on January 24, 2009

**Assistance for persons with disabilities:** Contact

Tami Dahlgren at (360) 407-6830 by January 3, 2009

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

**Date of intended adoption:** March 1, 2009

(Note: This is **NOT** the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

This programmatic action involves a general update of Chapter 173-460 WAC and a limited update of WAC 173-400-110. The revision to Chapter 173-460 WAC includes an update of the list of toxic air pollutants, recalculation of the acceptable source impact levels and small quantity emission rates to reflect current scientific findings, setting the de minimis values for emissions of toxic air pollutants, and deleting out of date control technologies for best available control technologies. The revisions to WAC 173-200-110 are focused on integrating the new source review process in the two rules. Both WACs regulate new or modified sources of air pollution.

This rule making has three major goals: to update the toxic air pollutant list; to establish acceptable source impact levels for emission, small quantity emission rates, and de minimis emission levels to reflect current scientific information, and to increase the consistency between WAC 173-400 and WAC 173-460. In the new rule the permit process and exemptions have been consolidated in WAC 173-400-110.

Since the conclusion of the advisory committee meetings Ecology has added to the rulemaking a new de minimis level for PM<sup>2.5</sup>. The method of determining this level is the same as was used in developing the other criteria pollutant de minimis values. We invite comments on this revision in addition to the other changes to the two rules.

**Reasons supporting proposal:**

Ecology has made a commitment to periodically update this rule, in order to reflect the most current scientific understanding of the toxic effects of industrial air emissions.

**Statutory authority for adoption:**

Chapter 70.94 RCW Washington Clean Air Act

**Statute being implemented:**

Chapter 70.94 RCW Washington Clean Air Act

**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**DATE**

November 18, 2008

**NAME** (type or print)

Polly Zehm

**SIGNATURE**

*Polly Zehm*

**TITLE**

Deputy Director, Dept of Ecology

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** November 19, 2008

**TIME:** 11:17 AM

**WSR 08-23-097**

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

N/A

**Name of proponent:** (person or organization)

Air Quality Program, Dept of Ecology

☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Linda Whitcher	Lacey, WA	(360) 407-6875
Implementation....Richard Hibbard	Lacey, WA	(360) 407-6896
Enforcement.....Richard Hibbard	Lacey, WA	(360) 407-6896

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Kasia Patora  
Address: Economic & Regulatory Research  
Dept of Ecology  
PO BOX 47600  
Lacey, WA 98504-7600

phone (360) 407-6184  
fax (360) 407-6989  
e-mail kpat461@ecy.wa.gov

**Is a cost-benefit analysis required under RCW 34.05.328?**

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kasia Patora  
Address:  
Economic & Regulatory Research  
Dept of Ecology  
PO BOX 47600  
Lacey, WA 98504-7600

phone (360) 407-6184  
fax (360) 407-6989  
e-mail kpat461@ecy.wa.gov

☐ No: Please explain: